IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

WP(C).No. 27868 of 2006(P)

PETITIONER:

BHARTI AIR TEL LTD. FORMERLY KNOWN AS
BHARTI TELE-VENTURES LIMITED, "BHARTI TOWERS",
S.A.ROAD, KADAVANTHRA, KOCHI-682 020, REPRESENTED
BY ITS HEAD-LEGAL, SRI.P.JAYAPAL MENON.

BY ADV. SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN

RESPONDENTS:

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1. THRIKKAKKARA GRAMA PANCHAYAT,
KAKKANAD P.O., KOCHI-682 030, REPRESENTED
BY ITS SECRETARY.

2. CIRCLE INSPECTOR OF POLICE,
THRIKKAKARA POLICE STATION.

BY ADV. SRI.S.SHANAVAS KHAN, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.27868/06

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – PHOTO COPY OF LETTER DT.16.10.06 ISSUED BY SECRETARY, THRIKKAKARA GRAMA PANCHAYAT TO PETR.

EXT.P2 -TRUE COPY OF JUDGMENT DT.9.1.06 IN WPC.179/06

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C) No.27868 OF 2006

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DATED THIS THE 6TH FEBRUARY, 2007

J U D G M E N T

Having regard to the principles laid down by the Division Bench of this Court in **Reliance Infocom Ltd. v. Chemanchery Grama Panchayat** (2006 (4) KLT 695), Ext.P1 order passed by the Panchayat cannot be sustained. Ext.P1 is quashed. I find that all possible reliefs have already been granted under my interim order dated 25.10.2006 which has been confirmed by Division Bench also. I permit energisation of the towers already constructed, subject to the observations and directions in the Division Bench judgment in **Reliance Infocom's** case (supra) which I quote as follows:-

> "We notice that the Panchayat has as on today no scientific data or relevant materials to cancel the licence already granted on the ground that the installation of the Tower would cause any health hazards. Licence granted has been cancelled by the Panchayat based on an apprehension that the radiation may cause health hazards to the people of the locality. Further Ext.P5 also says that installation of generator would cause sound pollution. Petitioner has not installed any generator as on today and if the installation of generator would cause any sound pollution, evidently Pollution Control Board can give appropriate direction and the petitioner will have to obtain

necessary consent from the Pollution Control Board for installation of generators, so that it would not cause any sound pollution. So also, if the installation of Tower and the emission of electromagnetic waves causes any air pollution, affecting human health, the Pollution Control Board can take appropriate measures under Air (Prevention and Control of Pollution) Act, 1991."

The Writ Petition is allowed as above. The parties will bear their respective costs.

(PIUS C. KURIAKOSE, JUDGE)

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